

ASSEMBLY BILL

No. 47

Introduced by Assembly Members Ma and Niello

December 1, 2008

An act to amend Section 17052.25 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 47, as introduced, Ma. Income taxes: credit: adoption costs.

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law, including a credit in an amount equal to 50% of specified adoption costs, not to exceed \$2,500 per minor child.

This bill would increase that credit to 75% of the costs of the adoption, and increase the credit limit to a maximum of \$5,000 with respect to the adoption of any minor child, as described, who is over 12 years of age or who was living in a group home or residential facility at the time of his or her adoption.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17052.25 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17052.25. (a) ~~For (1) Except as provided in paragraph (2),~~
- 4 ~~for each taxable year beginning on or after January 1, 1994, there~~
- 5 ~~shall be allowed as a credit against the "net tax," as defined in~~
- 6 ~~Section 17039, an amount equal to 50 percent of the costs paid or~~

1 incurred by a taxpayer for the adoption of any minor child who is
2 a citizen or legal resident of the United States and was in the
3 custody of a public agency of either this state or a political
4 subdivision of this state. ~~The~~ *Except as provided in paragraph (2),*
5 *the credit shall not exceed two thousand five hundred dollars*
6 *(\$2,500) per minor child.*

7 *(2) In the case of any minor child who is a person described in*
8 *Section 300, 601, or 602 of the Welfare and Institutions Code*
9 *immediately prior to his or her adoption, the credit shall be an*
10 *amount equal to 75 percent of the costs paid or incurred by a*
11 *taxpayer for the adoption plus any additional amounts applicable*
12 *to a minor child under subparagraphs (A) and (B), and shall not*
13 *exceed a maximum of five thousand dollars (\$5,000) per minor*
14 *child:*

15 *(A) An additional credit not to exceed two thousand five hundred*
16 *dollars (\$2,500) per child shall be given if the minor child is over*
17 *12 years of age at the time of his or her adoption.*

18 *(B) An additional credit not to exceed two thousand five hundred*
19 *dollars (\$2,500) shall be given if the minor child was living in a*
20 *group home or residential treatment facility at the time of his or*
21 *her adoption.*

22 (b) “Costs” eligible for the credit pursuant to subdivision (a)
23 shall include the following:

24 (1) Fees for required services of either the Department of Social
25 Services or a licensed adoption agency.

26 (2) Travel and related expenses for the adoptive family that are
27 directly related to the adoption process.

28 (3) Medical fees and expenses that are not reimbursed by
29 insurance and are directly related to the adoption process.

30 (c) The credit authorized by this section shall be claimed for
31 the taxable year in which the decree or order of adoption is entered
32 pursuant to Section 8612 of the Family Code. However, the
33 allowable credit claimed may include any costs of that adoption
34 paid or incurred in any prior taxable year.

35 (d) In the case where the credit allowed by this section exceeds
36 the “net tax,” the excess may be carried over to reduce the “net
37 tax” in the following year, and succeeding years if necessary, until
38 the total credit of ~~two thousand five hundred dollars (\$2,500) per~~
39 ~~minor child~~ is exhausted.

1 (e) Any deduction otherwise allowed under this part for any
2 amount paid or incurred by the taxpayer upon which the credit is
3 based shall be reduced by the amount of the credit allowed under
4 this section.

5 (f) *The amendments to this section by the act adding this*
6 *subdivision shall apply only to taxable years beginning on or after*
7 *January 1, 2009.*

8 SEC. 2. This act provides for a tax levy within the meaning of
9 Article IV of the Constitution and shall go into immediate effect.

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